

BILL NO. S-73-07 -05

SPECIAL ORDINANCE NO. S- 83-73

AN ORDINANCE approving Board of Public Works Resolution No. 59-294-8 for payment to Nobis-Westropp of \$53,626.07, of which \$16,168.53 shall be in Barrett bonds.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Resolution of the Board of Public Works, adopted June 28, 1973, to pay Nobis-Westropp the sum of \$53,626.07, of which \$16,168.53 shall be in Barrett bonds for work performed on the "Goshen Road-Burma Road Sanitary Sewer; all as more particularly set forth in Board of Public Works Resolution No. 59-294-8 and is by reference incorporated herein and made a part hereof, is in all things hereby ratified, confirmed and approved.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.



Councilman

APPROVED AS TO FORM
AND LEGALITY,



CITY ATTORNEY

Read the first time in full and on motion by Steu, seconded by Stinga, and duly adopted, read the second time by title and referred to the Committee on Public Works. (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 7/10/73

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Steu, seconded by Stinga, and duly adopted, placed on its passage. Passed (~~lost~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATE: 7/24/73

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. S-83-73 on the 24th day of July, 1973.

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

Winfield C. White Jr.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of July, 1973, at the hour of 10:00 o'clock A. M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 25th day of July, 1973, at the hour of 4:00 o'clock P. M., E.S.T.

James H. Thompson
MAYOR

Bill No. S-73-07-05

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance
approving Board of Public Works Resolution No. 59-294-8 for
payment to Nobis-Westropp of \$53,626.07, of which \$16,168.53
shall be in Barrett bonds.

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance 90 PASS.

James S. Stier - Chairma

Eugene Kraus, Jr. - Vice-Chairman

Samuel J. Talarico

William T. Hinga

Vivian G. Schmidt

James S. Stier
Eugene Kraus, Jr.
Samuel J. Talarico
William T. Hinga
Vivian G. Schmidt

DATE 7-21-13 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

RESOLUTION NO. 59-294-8

WHEREAS, on or about July 16, 1970, the Board of Public Works of the City of Fort Wayne, Indiana ("Board") adopted a Resolution authorizing the construction of a sanitary sewer pursuant to local Sewer Resolution No. 811-1970 which sewer was, and is, known as the "Goshen Road-Burma Road Sanitary Sewer"; and

WHEREAS, Nobis-Westropp Construction Company, Inc. ("Nobis-Westropp") was awarded the contract for the construction of said sanitary sewer; and

Whereas, Nobis Westropp proceeded to perform said contract and completed the construction of said sanitary sewer on or about June 1, 1971; and

WHEREAS, Board ordered final inspections and preparation of assessment rolls for said sanitary sewer and remonstrances on said assessments were heard by Board on December 2, 1971 and the final confirmation of said assessments was made on January 3, 1972; and

WHEREAS, lawsuits have been filed against the City of Fort Wayne ("City") by reason of said assessments and controversy exists between some of the property owners affected and the City; and

WHEREAS, the aforesaid lawsuits by property owners have delayed the Board in paying Nobis-Westropp the sum of \$46,840.75 which is part of their contract; and

WHEREAS, controversy has arisen between Board and Nobis-Westropp with regard to the time and manner in which Nobis-Westropp should have been paid; and

WHEREAS, Nobis-Westropp has filed a lawsuit against the City of Fort Wayne, seeking the sum of \$150,000 for damages allegedly incurred by reason of the City's failure to make prompt payment of the money due and owing under said contract and by reason of the manner in which the City insisted upon making payment; and

WHEREAS, there have been prolonged negotiations between the City and Nobis-Westropp; and

WHEREAS, said controversy may be settled by the payment to Nobis-Westropp of \$53,626.07, of which \$16,168.53 shall be in Barrett bonds, which represents the total amount of said bonds still remaining in the City's hands; and

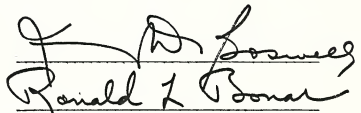
WHEREAS, said settlement represents the balance due (\$47,626.07) on said contract plus \$6,000 in damages (interest on unpaid balance) for a total of \$53,626.07; and

WHEREAS, the Board will be the benefactor of the judgements from the pending legation of property owners who have not paid their assessments which total \$46,840.75 plus interest; and

WHEREAS, the Board is of the opinion that said settlement would be fair to both the City and Nobis-Westropp and in the interest of each;

NOW THEREFORE BE IT RESOLVED BY the Board of Public Works, Governing Body of the City of Fort Wayne, that the aforesaid controversy between Board and Nobis-Westropp be settled by the payment to Nobis-Westropp of \$53,626.07, of which \$16,168.53 shall be in Barrett bonds.

Ordered Resolution No. 59-294-8 sent to the Common Council Tuesday, July 10, 1973 at 8:00 p.m.

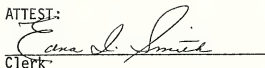


Ronald L. Bonar

BOARD OF PUBLIC WORKS

JUN 28 1973

ATTEST:



Clerk

Memorandum

To MR WESTERMAN

Date 7-9-73

From DAVE K

Subject _____

COPIES TO:

ON line 16 there is a typing error. It should read:

"... and is by reference..".

I'm not sure what your procedure is for correcting errors. Pls follow thru in the appropriate & legal manner.

Thank you,

DIGEST SHEET

✓
TITLE OF ORDINANCE Resolution No. 59-294-8 (Resolution #857) 0-73-07-05

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Attached Resolution is self explanatory. There has been pending litigation against City for some time--first by some of the property owners, then by the contractor. The City Attorney has reached a settlement with the contractor, as set out in the resolution, whereby the City will pay contractor balance due on contract thru Barrett Law. Upon settlement of suit filed by certain property owners, the monies owed by said property owners will be reimbursed to the City. Additional cost to City is \$6,000.00 over contract price.

EFFECT OF PASSAGE Settlement of contractor's suit filed in May of 1972.

EFFECT OF NON-PASSAGE Non-settlement.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

Cost to City is balance of contract past due in cash and bonds plus \$6000.00 interest.

ASSIGNED TO COMMITTEE (J.N.) Public Works - WCH

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

CONTENTS OF ORDINANCE

BILL NO.	<i>S-73-07-05</i>
ORDINANCE NO.	<i>D-83-73</i>
REGULAR SESSION	<i>7-10-73</i>
SPECIAL SESSION	
APPROVED AS TO FORM AND LEGALITY	<i>Keller</i>
BILL WRITTEN BY	<i>Bd. of Public Works</i>
DATE INTRODUCED	<i>7-10-73</i>
REFERRED TO SAID STANDING COMMITTEE	<i>Plan Public Works</i>
REFERRED TO CITY PLAN	
LEGAL PUBLIC HEARING	
LEGAL PUBLICATION	
JOINT HEARING	
DEPARTMENT HEARING	
HOLD FILE	
<input checked="" type="checkbox"/> PASS	<i>July 24, 1973</i>
DO NOT PASS	
WITHDRAWN	
SUSPENSION OF RULES	
PRIOR APPROVAL	
ORDINANCE TAKEN OUT OF OFFICE	
OTHER INSTRUCTIONS REGARDING ORDINANCE	
CORRECTIONS MADE TO ORDINANCE	
PEOPLE SPEAKING FOR ORDINANCE	
PEOPLE SPEAKING AGAINST ORDINANCE	

<input checked="" type="checkbox"/>	COMMITTEE SHEET
<input checked="" type="checkbox"/>	VOTE SHEET
	PURCHASE ORDERS
	<i>Resolution # 59-294-8</i>
	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	ZONING MAPS
	ABSTRACTS
	TITLES
	PRIOR APPROVAL LETTER

Digital Club.

COUNCILMAN'S VOTE

	AYES	NAYS	ABSENT
BURNS	<input checked="" type="checkbox"/>		
HINGA	<input checked="" type="checkbox"/>		
KRAUS	<input checked="" type="checkbox"/>		
MOSES	<input checked="" type="checkbox"/>		
NUCKOLS	<input checked="" type="checkbox"/>		
D. SCHMIDT	<input checked="" type="checkbox"/>		
V. SCHMIDT	<input checked="" type="checkbox"/>		
STIER	<input checked="" type="checkbox"/>		
TALARICO	<input checked="" type="checkbox"/>		

COMMENTS: